



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2012-0536; FRL-9737-6]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Indiana; South Bend-Elkhart, Indiana Ozone Maintenance Plan  
Revision to Approved Motor Vehicle Emissions Budgets**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve Indiana's request to revise the South Bend-Elkhart, Indiana 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) by replacing the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. Indiana submitted this request to EPA for parallel processing with a letter dated June 15, 2012, and followed up with a final submittal after the state public comment period ended on July 18, 2012.

**DATES:** Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0536, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.

2. E-mail: [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov).
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0536. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact

information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to section I of the SUPPLEMENTARY INFORMATION section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM,

Monday through Friday, excluding Federal holidays. We recommend that you telephone Patricia Morris, Environmental Scientist at (312)353-8656 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Patricia Morris, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8656, [patricia.morris@epa.gov](mailto:patricia.morris@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What Should I Consider as I Prepare My Comments for EPA?
- II. What Action Is EPA Proposing to Take?
- III. What Is the Background for This Action?
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  - b. Prior Approval of Budgets
  - c. The MOVES Emissions Model and Regional Transportation Conformity Grace Period
  - d. Submission of New Budgets Based on MOVES2010a
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- V. What Is EPA's Analysis of the State's Submittal?
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## VII. Statutory and Executive Order Reviews

### I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions - EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period.

### II. What Action Is EPA Proposing to Take?

EPA is proposing to approve new MOVES2010a-based budgets for the South Bend-Elkhart, Indiana 1997 8-hour ozone maintenance area. The South Bend-Elkhart, Indiana area was redesignated to

attainment of the 1997 8-hour ozone standard effective July 19, 2007 (72 FR 39577), and the MOBILE6.2-based budgets were approved in that action. If EPA finalizes this proposed approval, the newly submitted MOVES2010a-based budgets will replace the existing MOBILE6.2-based budgets in the state's 1997 8-hour ozone maintenance plan and must then be used in future transportation conformity analyses for the area. At that time, the previously approved MOBILE6.2-based budgets would no longer be applicable for transportation conformity purposes.

If EPA approves the MOVES2010a-based budgets, the South Bend-Elkhart 1997 8-hour ozone maintenance area must use the MOVES2010a-based budgets starting on the effective date of the final approval. See the official release of the MOVES2010 Emissions Model (75 FR 9411) for background and section III (c) below for details.

### **III. What Is the Background for This Action?**

#### **a. SIP Budgets and Transportation Conformity**

Under the Clean Air Act (CAA), states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These emission control strategy SIP revisions (e.g., reasonable further progress (RFP) and attainment demonstration SIP revisions) and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors to

address pollution from cars, trucks, and other on-road vehicles. These motor vehicle SIP budgets are the portions of the total emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance, if they are not exceeded. The budget serves as a ceiling on emissions from an area's planned transportation system. For more information about budgets, see the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

Under CAA section 176(c), transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must "conform" to (i.e., be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The transportation conformity regulations can be found at 40 CFR parts 51 and 93.

In general, before budgets can be used in conformity determinations, EPA must affirmatively find the budgets adequate. However, budgets that are replacing approved budgets must be found adequate and approved before the budgets can replace the older budgets. Therefore, EPA cannot just find these replacement budgets adequate because adequate budgets do not supersede approved budgets for the same CAA purpose. If the submitted SIP

budgets are meant to replace budgets for the same purpose, as is the case with Indiana's MOVES2010a 1997 8-hour ozone maintenance plan budgets, EPA must approve the revised SIP and budgets, and must affirm that they are adequate at the same time. Once EPA approves the budgets in the SIP, the revised budgets must be used by state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of budgets are set out in 40 CFR 93.118(e)(4).

**b. Prior Approval of Budgets**

EPA had previously approved budgets for the South Bend-Elkhart, 8-hour ozone maintenance area for volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) for the year 2020 on July 19, 2007 (72 FR 39577). These budgets were based on EPA's MOBILE6.2 emissions model. The ozone maintenance plan established 2020 budgets for the South Bend-Elkhart, Indiana area of 6.64 tons per day (tpd) for VOCs and 7.73 tpd for NO<sub>x</sub>. These budgets demonstrated a reduction in emissions from the monitored attainment year and included a margin of safety.

**c. The MOVES Emissions Model and Regional Transportation  
Conformity Grace Period**

The MOVES model is EPA's state-of-the-art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in



the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in MOBILE6.2.

EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). EPA subsequently released two minor model revisions: MOVES2010a in September 2010 and MOVES2010b in April 2012. Both of these minor revisions enhance model performance and do not significantly affect the criteria pollutant emissions results from MOVES2010.

MOVES will be required for new regional emissions analyses for transportation conformity determinations ("regional conformity analyses") outside of California that begin after March 2, 2013, or when EPA approves MOVES-based budgets, whichever comes first.<sup>1</sup> Prior to March 2, 2013, areas can continue to use MOBILE6 unless the area has approved MOVES budgets. The grace period for regional conformity analyses applies to both the use of MOVES2010 and approved minor revisions (e.g., MOVES2010a and MOVES2010b). For more information, see EPA's "Policy Guidance on the Use of MOVES2010 and Subsequent Minor Model Revisions for State Implementation Plan Development,

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<sup>1</sup> Upon the release of MOVES2010, EPA established a two-year grace period before MOVES is required to be used for regional conformity analyses (75 FR 9411). EPA subsequently promulgated a final rule on February 27, 2012 to provide an additional year before MOVES is required for these analyses (77 FR 11394). In this case the grace period ends on March 2, 2013.

Transportation Conformity, and Other Purposes" (April 2012), available online at:

[www.epa.gov/otag/stateresources/transconf/policy.htm#models](http://www.epa.gov/otag/stateresources/transconf/policy.htm#models).

EPA encouraged areas to examine how MOVES would affect future transportation plan and TIP conformity determinations so, if necessary, SIPs and budgets could be revised with MOVES or transportation plans and TIPs could be revised (as appropriate) prior to the end of the regional transportation conformity grace period. EPA also encouraged state and local air agencies to consider how the release of MOVES would affect analyses supporting SIP submissions under development (77 FR 9411 and 77 FR 11394).

The Michiana Council of Governments (MACOG), which is the Metropolitan Planning Organization (MPO) for the South Bend-Elkhart area, has used MOVES2010a emission rates with the transportation network information to estimate emissions in the years of the transportation plan and also for the SIP. Indiana is revising the budgets at this time using the latest planning assumptions including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Since MOVES2010 (or a minor model revision) will be required for conformity analyses after the grace period ends, Indiana has concluded that updating the budgets with MOVES2010a will prepare the areas for the transition to using MOVES for conformity analyses and

determinations. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

**d. Submission of New Budgets Based on MOVES2010a**

On June 15, 2012, Indiana submitted to EPA, for parallel processing, replacement budgets based on MOVES2010a for the South Bend-Elkhart area. Indiana provided public review and comment which ended on July 18, 2012. There were no comments. Indiana submitted the final SIP revision request on August 17, 2012.

The MOVES2010a budgets are proposed to replace the prior approved MOBILE6.2 budgets and are for the same years and pollutants/precursors. The new MOVES2010a budgets are for the year 2020 for both VOCs and NO<sub>x</sub> and are detailed in a Table in section V(b) of this notice. Indiana has also provided the total emissions including mobile emissions based on MOVES2010a for the attainment year of 2004, the interim year 2010 and the 2020 maintenance year. The total safety margin available in 2020 for NO<sub>x</sub> is 54.42 tpd and for VOC is 7.94 tpd. This information is detailed in the submittal and provided in the following table. The safety margin is defined as the reduction in emissions from the base year (in this case the 2004 attainment year) to the final year of the maintenance plan (in this case the 2020 year). The total emissions includes point, area, non-road, and on-road mobile sources.

Table of Total Emissions with MOVES2010a Emissions

Year	2004	2010	2020	Safety margin
VOC	96.83	84.65	88.89	7.94
NO <sub>x</sub>	91.48	60.04	37.06	54.42

The submittal demonstrates how all emissions decline from the attainment year of 2004. In 2004, the total estimated NO<sub>x</sub> emissions from all sources (including mobile, point, area, and non-road sources) is 91.48 tpd and the total VOC emissions, for the 2004 attainment year, from all sources is 96.83 tpd. The 2020 estimated emissions for total NO<sub>x</sub> from all sources is 37.06 tpd and the total VOC emissions from all sources is 88.89 tpd. This is further discussed in section V of this notice and detailed in a table. This reduction in emissions demonstrates that the area will continue below the attainment level of emissions and maintain the 1997 8-hour ozone standard. The motor vehicle emissions, when included with point, area, and non-road sources continue to demonstrate maintenance of the attainment level of emissions in the South Bend-Elkhart area.

No additional control measures were needed to maintain the 1997 ozone standard in the South Bend-Elkhart area. An appropriate safety margin for NO<sub>x</sub> and VOCs was discussed by the interagency consultation group (the interagency consultation group as required by the state conformity agreement, consists of Federal Highway Administration, the Indiana Department of

Transportation, Indiana Department of Environmental Management, EPA, and the local MPO). The allocation of safety margin is included in Table 5.2-A of the Indiana submittal. The on-road MOVES2010a based budgets are in Table 5.2-A of the submittal and are listed as 13.95 tpd for NOx and 6.73 tpd for VOCs in the year 2020. These budgets will continue to keep emissions in the South Bend-Elkhart area below the calculated attainment year of emissions.

#### **IV. What Are the Criteria for Approval?**

EPA has always required that revisions to existing SIPs and budgets continue to meet applicable requirements (i.e., RFP, attainment, or maintenance). States that revise their existing SIPs to include MOVES budgets must therefore show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions contained in the budgets. The SIP must also meet any applicable SIP requirements under CAA section 110.

In addition, the transportation conformity rule (at 40 CFR 93.118(e)(4)(iv)) requires that "the budgets, when considered together with all other emissions sources, is consistent with applicable requirements for RFP, attainment, or maintenance (whichever is relevant to the given implementation plan submission)." This and the other adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate or approve them for conformity purposes.

In addition, EPA has stated that areas can revise their

budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. For example, the first criterion could be satisfied by demonstrating that the emissions reductions between the baseline/attainment year and maintenance year are the same or greater using MOVES than they were previously. The Indiana submittal meets this requirement, as described below in section V.

For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes" (April 2012).

## **V. What Is EPA's Analysis of the State's Submittal?**

### **a. The Revised Inventories**

The Indiana SIP revision request for South Bend-Elkhart 1997 ozone maintenance seeks to revise only the on-road mobile source inventories and not the non-road inventories, area source inventories, or point source inventories for the 2020 year for which the SIP revises the budgets. IDEM has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. Attainment of

the ozone standard with current control strategies is confirmed by the monitoring data for South Bend-Elkhart, IN, which continues to monitor attainment for the 1997 8-hour ozone standard. The area is also monitoring attainment for the 2008 8-hour ozone standard. Thus, the current control strategies are continuing to keep the area in attainment of the NAAQS.

EPA has reviewed the emission estimates for point, area, and non-road sources and concluded that no major changes to the projections need to be made, as discussed further below. Indiana finds that growth and control strategy assumptions for non-mobile sources (i.e., area, non-road, and point) have not changed significantly from the original submittal for the years 2004, 2010, and 2020. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2004, 2010, and 2020 continue to be valid and do not affect the overall conclusions of the plan.

Indiana confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) are 91.48 tpd for NO<sub>x</sub> and 96.83 tpd for VOCs in the 2004 attainment year. The total emissions from all sources in the 2020 year are 37.06 tpd for NO<sub>x</sub> and 88.89 tpd for VOCs. These totals demonstrate that emissions in the South Bend-Elkhart area

are continuing to decline and remain below the attainment levels.

Indiana has submitted MOVES2010a-based budgets for the South Bend-Elkhart area that are clearly identified in Table 5.2-A of the submittal. The on-road budgets for 2020 are 13.95 tpd for NO<sub>x</sub> and 6.73 tpd for VOCs. These are the budgets that are being proposed for approval.

**b. Approvability of the MOVES2010a-based Budgets**

EPA is proposing to approve the MOVES2010a-based budgets submitted by the state for use in determining transportation conformity in the South Bend-Elkhart 1997 ozone maintenance area. EPA is making this proposal based on our evaluation of these budgets using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the State's submittal and SIP requirements. EPA has determined, based on its evaluation, that the area's maintenance plan would continue to serve its intended purpose with the submitted MOVES2010a-based budgets and that the budgets themselves meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4).

The adequacy criteria found in 40 CFR 93.118(e)(4) are as follows:

- The submitted SIP was endorsed by [the Governor/Governor's designee] and was subject to a state public hearing (§93.118(e)(4)(i));
- Before the control strategy implementation plan was submitted to EPA, consultation among Federal, state, and



local agencies occurred, and the state fully documented the submittal (§93.118(e)(4)(ii));

- The budgets are clearly identified and precisely quantified (§93.118(e)(4)(iii));
- The budgets, when considered together with all other emissions sources, are consistent with applicable requirements for RFP, attainment, or maintenance (§93.118(e)(4)(iv));
- The budgets are consistent with and clearly related to the emissions inventory and control measures in the control strategy implementation plan (§93.118(e)(4)(v); and
- The revisions explain and document changes to the previous budgets, impacts on point and area source emissions and changes to established safety margins and reasons for the changes (including the basis for any changes related to emission factors or vehicle miles traveled) (§93.118(e)(4)(vi).

Our review finds that Indiana has met all of the adequacy criteria. The final submittal is dated August 17, 2012, and signed by the governor's designee. All public hearing materials were submitted with the formal SIP revision request. The interagency consultation group, which is comprised of the state air agency, state Department of Transportation, Federal Highway Administration, EPA, and the MPOs for the area, have discussed and reviewed the budgets developed with MOVES2010a and the safety

margin allocation. The budgets are clearly identified and precisely quantified in the submittal in table 5.2-A. The budgets when considered with other emissions sources (point, area, non-road) are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the Appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration - Indiana Division and the Indiana Department of Transportation have taken a lead role in working with the MPO and contractor to provide accurate, timely information and inputs to the MOVES2010a model runs. The MACOG network model provided the vehicle miles of travel and other necessary data from the travel demand network model.

The CAA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (in this case, maintenance). Therefore, states that revise existing SIPs with MOVES must show that the SIP continues to meet applicable requirements with the new level of motor vehicle emissions calculated by the new model.

To that end, Indiana's submitted MOVES2010a budgets meet

EPA's two criteria for revising budgets without revising the entire SIP:

(1) The SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES2010a base year and milestone, attainment, or maintenance year inventories, and

(2) The state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP.

The State has documented that growth and control strategy assumptions continue to be valid and do not change the overall conclusions of the maintenance plan. The emission estimates for point, area and non-road sources have not changed. Indiana finds that growth and control strategy assumptions for non-mobile sources (i.e., area, non-road, and point) from the original submittal for the years 2004, 2010, and 2020 were developed before the downturn in the economy over the last several years. Because of this, the factors included in the original submittal may project more growth than actual into the future. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2004, 2010, and 2020 continue to be valid and do not affect the overall conclusions of the plan.

Indiana confirms that the SIP continues to demonstrate its purpose of maintaining the 1997 ozone standard because the

emissions are continuing to decrease from the attainment year to the final year of the maintenance plan. The total emissions in the revised SIP (which includes MOVES2010a emissions for mobile sources) decrease from the 2004 attainment year to the year 2020 (the last year of the maintenance plan). These totals demonstrate that emissions in the South Bend-Elkhart area are continuing to decline and remain below the attainment levels. The table below shows total emissions in the South Bend-Elkhart area including point, area, non-road, and mobile sources and demonstrates the declining emissions from the 2004 attainment year.

Table of Total Emissions with MOVES2010a Mobile Emissions

Year	2004	2010	2020
VOC	96.83	84.65	88.89
NO <sub>x</sub>	91.48	60.04	37.06

The following table displays the submitted budgets that are proposed in the notice to be approved. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Table of Motor Vehicle Emission Budgets (MOVES)  
South Bend-Elkhart, Indiana for year 2020

VOC (tpd)	6.73
NO <sub>x</sub> (tpd)	13.95

Based on our review of the SIP and the new budgets provided, EPA has determined that the SIP will continue to meet its requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

### **c. Applicability of MOBILE6.2-based Budgets**

Pursuant to the State's request, EPA is proposing that, if we finalize the approval of the revised budgets, the state's existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes upon the effective date of that final approval.

In addition, once EPA approves the MOVES2010a-based budgets, the regional transportation conformity grace period for using MOBILE6 instead of MOVES2010 (and subsequent minor revisions) for the pollutants included in these budgets will end for the South Bend-Elkhart ozone maintenance area on the effective date of that final approval.<sup>2</sup>

## **VI. What Action Is EPA Taking?**

EPA is proposing in this action that the South Bend-Elkhart, Indiana existing approved budgets for VOCs and NO<sub>x</sub> for 2020 for the 1997 8-hour ozone maintenance plan, that were based on the MOBILE6.2 emissions model, be replaced with new budgets based on the MOVES2010a emissions model. Once this proposal is finalized, future transportation conformity determinations would use the new, MOVES2010a-based budgets and would no longer use the existing MOBILE6.2-based budgets. EPA is also proposing to find that the South Bend-Elkhart area's maintenance plan would continue to meet its requirements as set forth under the CAA when

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<sup>2</sup> For more information, see EPA's "Policy Guidance on the Use of MOVES2010 and Subsequent Minor Revisions for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (April 2012).

these new budgets are included.

## **VII. Statutory and Executive Order Reviews.**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Nitrogen  
oxides, Ozone, Volatile organic compounds.

Dated: September 21, 2012.

Susan Hedman,  
Regional Administrator, Region 5.

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Date: 10/04/2012]